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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/579,123 | 10/16/2006 | Nigel Graham Moore | 02157.0029U1 | 6665 |
| 23850 | 7590 | 05/21/2010 | EXAMINER | |
| Ballard Spahr LLP | | | NORMAN, MARC E | |
| SUITE 1000 | | | ART UNIT | |
| 999 PEACHTREE STREET | | | PAPER NUMBER | |
| ATLANTA, GA 30309-3915 | | | 3744 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,123

Applicant(s)

MOORE ET AL.

Examiner

Marc E. Norman

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28, 31-37 and 39-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-28, 31-37 and 39-61 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-14, 16, 18-28, 31-33, and 42-44, drawn to a dchp unit controller being operable to determine operating times of a dchp unit in accordance with the heating and/or hot water schedule provided by the programmer module and to provide the dchp unit operating times to the energy scheduler; and the energy scheduler being operable to receive the dchp unit operating times and to determine operating times of the domestic appliance using the dchp unit operating times.

Group II, claim(s) 15, drawn to multiple homes with local energy schedulers arranged to communicate with a hub controller.

Group III, claim(s) 17, 40, and 46-61, drawn to a dchp controller operable to determine operating times of a dchp unit in accordance with the heating and/or hot water schedule provided by a programmer module such that the temperature of the home reaches the desired temperature and/or hot water is available at the start time of each time band.

Group IV, claim(s) 34 and 35, drawn to a controller operable to control the firing range of a main burner with reference to a signal received that is indicative of the rate of change of a home temperature.

Group V, claim(s) 36, 37, and 39, drawn to a controller operable to control the firing rate of a main burner to maintain a substantially constant temperature.

Group VI, claim(s) 40, drawn to a method wherein an energy scheduler scheduling operation of a domestic appliance coincides with the operation of a dchp unit.

The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Each of Groups II-VI do not require the technical feature of Group I of a dchp unit controller being operable to determine operating times of a dchp unit in accordance with the heating and/or hot water schedule provided by the programmer module and to provide the dchp unit operating times to the energy scheduler; and the energy scheduler being operable to receive the dchp unit operating times and to determine operating times of the domestic appliance using the dchp unit operating times. Each of Groups I and III-VI do not require the technical feature of Group II whereby multiple homes with local energy schedulers are arranged to communicate with a hub controller. Each of Groups I, II and IV-VI do not require the technical feature of Group III of a dchp controller operable to determine operating times of a dchp unit in accordance with the heating and/or hot water schedule provided by a programmer module such that the temperature of the home reaches the desired temperature and/or hot water is available at the start time of each time band. Each of Groups I-III and V-VI do not require the technical feature of Group IV of a controller operable to control the firing range of a main burner with reference to a signal received that is indicative of the rate of change of a home temperature. Each of Groups I-IV and VI do not require the technical feature of Group V of a controller operable to control the firing rate of a main burner to maintain a substantially constant temperature. Each of Groups I-V do not require the technical feature of Group VI of an energy scheduler scheduling operation of a domestic appliance coincides with the operation of a dchp unit.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit

evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MN
/Marc E. Norman/
Primary Examiner, Art Unit 3744